



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 42] नई दिल्ली, शुक्रवार, अगस्त 9, 1985/श्रावण 18, 1907
No. 42] NEW DELHI, FRIDAY, AUGUST 9, 1985/SRAVANA 18, 1907

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 9th August; 1985:—

BILL NO. 34 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985. Short title.
2. In article 94 of the Constitution, in the second proviso, for the words "the Speaker shall not vacate his office", the words "the Speaker and the Deputy Speaker shall not vacate their respective offices", shall be substituted. Amend-ment of article 94.
3. In article 179 of the Constitution, in the second proviso, for the words "the Speaker shall not vacate his office", the words "the Speaker and the Deputy Speaker shall not vacate their respective offices", shall be substituted. Amend-ment of article 179

STATEMENT OF OBJECTS AND REASONS

The Speaker and the Deputy Speaker of the House of the People or of the Legislative Assembly of a state occupy positions of high prestige in our democratic set up. The Constitution provides for the continuance in office of the Speaker of the House of the People even when the House is dissolved and for the continuance in office of the Speaker of the Legislative Assembly, in case that House is dissolved. There is no provision for the continuance in office of the Deputy Speaker, when the House is dissolved at a time when the office of the Speaker, is lying vacant for any reason. There is also no provision for coping with the situation when the vacancy is caused in the office of the Speaker by any reason, after the House (House of the People/Legislative Assembly) stands dissolved. To tide over this contingency, it is essential that the Deputy Speaker should also continue to be in office alongwith the Speaker, until immediately before the first meeting of the House of the People or the Legislative Assembly after the dissolution.

Hence this Bill.

NEW DELHI;
January 23, 1985.

NARAIN CHAND PARASHAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the continuance in office by the Deputy Speaker of the House of the People when the House stands dissolved until immediately before the first meeting of the House of the People after the dissolution. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on account of salary and allowances payable to the Deputy Speaker during this period. It is likely to involve a recurring expenditure of about rupees four thousand per month, which may extend to a maximum period of six months, in view of the provisions of clause (1) of article 85 of the Constitution, every time the House of the People is dissolved. Under article 112(3) (b), the increase in the amount of such expenditure shall be charged on the Consolidated Fund of India.

The expenditure on account of salary and allowances payable to the Deputy Speaker of the Legislative Assembly of a State shall be met from and shall be a charge on the Consolidated Fund of that State.

No non-recurring expenditure is likely to be involved.

BILL NO. 64 OF 1985

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1985. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. After article 48A of the Constitution, the following article shall be inserted, namely:— Insertion of new article 48B.

“48B. The State shall take steps to set up a corporation to develop and regulate the inter-State rivers, river valleys, and mountain ranges spreading in two or more States.”. Setting up of a corporation to develop and regulate inter-State rivers, etc.
3. In the Seventh Schedule to the Constitution, in List I—Union List, for entry 56, the following entry shall be substituted, namely:— Amendment of Seventh Schedule.

“56. Regulation and development of inter-State rivers, river valleys and mountain ranges spreading in two or more States.”.

STATEMENT OF OBJECTS AND REASONS

Under the existing entry 56 of the Union List in the Seventh Schedule to the Constitution, the Union Government is empowered to develop and regulate the inter-State rivers and river valleys to the extent the Parliament declares by law that such regulation and development by the Union Government is expedient in the public interest. There is no reference to mountain ranges like Himalayas that spread in two or more States. The experience has shown that many inter-State rivers and river valleys could not be developed for long due to reluctance on the part of the States concerned to come to an agreement about the sharing of benefits as well as the expenditure incurred on such development. Even today a number of inter-State rivers and river valleys have not been developed with the result that the water flowing in such rivers goes waste. Mountains are being denuded indiscriminately.

It is, therefore, necessary that the Union Government should set up a Central corporation to develop the potential of the rivers and mountains in the country. The Union Government should also be the final arbiter in the matter of regulation and development of such rivers, river valleys and mountains.

Hence this Bill.

NEW DELHI;
March 1, 1985.

K. RAMAMURTHY

BILL NO. 78 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985.

Short
title,

2. In article 324 of the Constitution,—

Amend-
ment of
article
324.

(a) in clause (1), after the words “under this Constitution”, the words “and all elections to panchayats and other local bodies held under any law for the time being in force,” shall be inserted;

(b) in clause (4),—

(i) after the words “Legislative Assembly of each State”, the words “and to panchayats and other local bodies,” shall be inserted;

(ii) after the words “Regional Commissioners”, the words “and State Commissioners”, shall be inserted;

(c) in clause (5),—

(i) for the words “and the Regional Commissioners”, the words “, Regional Commissioners and the State Commissioners” shall be substituted;

(ii) in the second proviso, after the words “Regional Commissioner”, the words “or a State Commissioner” shall be inserted;

(d) in clause (6), after the words “Regional Commissioner”, the words “or to a State Commissioner” shall be inserted.

Amend-
ment of
article
325.

3. In article 325 of the Constitution, after the words "Legislature of a State", the words "or to a panchayat or other local body" shall be inserted.

Amend-
ment of
article
326.

4. In article 326 of the Constitution, after the words "every State", the words "and to a panchayat or other local body" shall be inserted.

Amend-
ment of
article
328.

5. In article 328 of the Constitution,—

(i) after the words "the State", the words "or panchayats or other local bodies falling within the territorial jurisdiction of the State" shall be inserted;

(ii) the words "or panchayats or local bodies" shall be added in the end.

Inser-
tion of
article
329A.

6. After article 329 of the Constitution, the following article shall be inserted, namely:

Duty
of the
Election
Commis-
sion to
ensure
timely
elections
to Pan-
chayats,
etc.

"329A. It shall be the duty of the Election Commission to hold elections to panchayats and other local bodies and the Government shall ensure that panchayats and other local bodies shall not be in non-existence for more than a period of three months unless the Election Commission by a notification otherwise declares assigning the reasons therefor."

Amend-
ment of
Seventh
Sche-
dule.

7. In the Seventh Schedule to the Constitution,—

(i) in List I—Union List, after entry, 72, the following entry shall be inserted, namely:—

"72A. Elections to local self-government, that is, to municipal corporations, improvement trusts, district boards and panchayats.";

(ii) in List II—State List, in entry 5, the words "subject to the powers of the Election Commission in regard to election to such bodies," shall be added at the end.

STATEMENT OF OBJECTS AND REASONS

Of late, some of the State Governments have not held elections to Panchayats, District Boards and to other local bodies for quite a long time after the expiry of the prescribed term of such bodies or after they were superseded/dissolved by the State Governments. This state of affairs not only has the dislocating effect on the administrative set-up of such local bodies but also robs the local people of their right to manage their own local affairs. The suspension of this right encourages bureaucratic interference in the local matters without leaving any effective remedy in the hands of the people. Further, very often elections to local bodies are not conducted in fair manner. In order to ensure fair elections and also a sort of continuity of the elected bodies, it is necessary that the Election Commission be empowered to hold under its supervision elections to such local bodies without any loss of time.

Hence this Bill.

NEW DELHI;
March 1, 1985.

K. RAMAMURTHY

FINANCIAL MEMORANDUM

Clause 2(a) of the Bill provides that superintendence, direction and control for the preparation of the electoral rolls for, and the conduct of all elections to panchayats and other local bodies shall be vested in the Election Commission. Clause 2(b) (ii) provides for the appointment of State Commissioners. Clause 2(d) provides for staff to the State Commissioners. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees sixteen lakhs annually from the Consolidated Fund of India. A non-recurring expenditure of about rupees four lakhs is also likely to be incurred.

BILL NO. 96 OF 1985

A Bill to provide for the constitution of a fund for the benefit of the farmers and agricultural workers

BE it enacted by Parliament in the Thirty-sixth Year of Republic of India as follows:—

1. (1) This Act may be called the Farmers and Agricultural Workers Benefit Fund Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “accident” means accident arising out of or in the course of agricultural operation and includes, snake bite or attack by an animal;

(b) “agricultural operation” means an agricultural or horticultural or sericultural work or rearing sheep, cattle, poultry or any other work ancillary thereto or connected therewith;

(c) “agricultural worker” means an agricultural worker who is landless and earns daily wages or wages monthly or annual or on any other basis for giving assistance in agricultural operations;

(d) “Commissioner” means a Commissioner appointed under section 12 of this Act;

Short
title,
extent
and
com-
mence-
ment.

Defini-
tion.

(e) "farmer" means a farmer who owns not more than 5 acres of wet land or 7 acres of partially wet and dry land or 10 acres of dry land;

(f) "fund" means the Farmers and Agricultural Workers Benefit Fund constituted under section 6 of the Act;

(g) "partial disablement" means, where the disablement at the time of accident is of a temporary nature, such disablement which reduces the working capacity temporarily of a farmer or an agricultural worker, and where the disablement is of a permanent nature, such disablement which reduces permanently his working capacity which he was capable of having before the accident;

(h) "prescribed" means prescribed by the rules made under this Act;

(i) "total disablement" means such disablement whether of temporary or permanent nature, which incapacitates a farmer or an agricultural worker for all work which he was capable of performing at the time of the accident resulting in such disablement;

Provided that every such injury, that may be specified by the Central Government by notification published in the Official Gazette, shall be deemed to result in permanent total disablement.

Com-
pensation
to farmer
and
agricul-
tural
worker

3. If a personal injury is caused to a farmer or an agricultural worker by accident, compensation shall be paid to such farmer or worker out of the fund in accordance with the provisions of this Act.

Provided that no compensation shall be paid to a farmer or an agricultural worker—

(a) in respect of any injury which results in the total or partial disablement of the farmer or an agricultural worker for a period less than six days;

(b) in respect of any injury, not resulting in death caused by an accident which is directly attributable to a farmer or an agricultural worker under the influence of drinks or drugs at the time of accident.

Fixa-
tion of
compen-
sation.

4. Subject to the provisions of this Act, the amount of compensation payable to a person sustaining injury resulting in his total or partial disablement shall be such as may be specified by the Central Government from time to time by notification in the Official Gazette.

Payment
of com-
pensation
in case of
death.

5. In the case of death, the compensation shall be paid to the legal heir or the dependents of the deceased.

Fund
to pay
compen-
sation.

6. (1) The Central Government shall constitute a fund to be called the "Farmers and Agricultural Workers Benefit Fund".

(2) The initial amount of the fund, constituted under sub-section (1), shall be three hundred crores rupces, half of which shall be provided by the Central Government and one half of the balance shall be provided by State Govern-

ments in proportion to their agricultural population and the remaining by the nationalised banks and other banking institutions, working under the direction of or recognised as such by the Reserve Bank of India, in proportion to their lending capital and thereafter monies shall be provided by the Centre and the States in such proportion as may be agreed from year to year.

(3) The fund shall vest in the Central Government and shall be managed in such manner as may be prescribed by rules made under this Act.

(4) The Central Government shall constitute such regional funds as it might consider necessary for the efficient administration of this Act.

7. No claim for compensation shall be entertained by a Commissioner unless the claim is preferred before him within three months of the occurrence of the accident: Claim to compensation.

Provided that the want of anything or any defect or irregularity in the form of a claim shall not be a bar to the entertainment of a claim:

Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred in due time if he is satisfied that the failure so to give the notice or prefer the claim as the case may be was due to sufficient cause.

8. Every claim under this Act shall contain such information and shall be in such form, as may be prescribed by rules made under this Act. Form of the claim.

9. On receipt of the claim, the Commissioner shall enquire into the matter and if he is satisfied that death or injury was caused to the person because of the accident, he shall decide the amount of compensation to be given under this Act and shall record reasons for coming to such a decision. Enquiry.

10. The proof of death of or injury to a farmer or an agricultural worker as a result of an accident shall be provided in such manner as may be prescribed by rules made under this Act. Proof of death or injury.

11. No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act. Bar to jurisdiction of civil courts

12. (1) The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for settling the claims of farmers and agricultural workers under this Act for such area or areas as may be specified in the notification. Appointment of Commissioner

(2) The procedure to be followed by a Commissioner shall be prescribed by rules made under this Act.

13. A Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons to assist him in accordance with the rules made under this Act. Assistance in inquiry.

Commissioner
to be a
public
servant.

14. Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

45 of 1860

Power.
and
proce-
dures of
Com-
missioners.

15. The Commissioner shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath, which such Commissioner is hereby empowered to impose, and of enforcing the attendance of witnesses and compelling the production of documents and material objects and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973.

5 of 1908.

2 of 1974.

Appeal.

16. An appeal shall lie to the High Court provided the appeal is made within 3 months of the decision given by the Commissioner.

Power to
make
rules.

17. (1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of sending claim to the Commissioner;

(b) the manner of proof for death or injury for compensation under this Act;

(c) the manner of paying compensation;

(d) any other matter which may be required to be so prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after, it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

While social security schemes have been extended to organised working classes, the farmers and agricultural workers, who constitute more than the two-thirds of the working force of the country, remain uncovered by such schemes. This class of our country's population is also the poorest. It is necessary in the national interest that farmers and agricultural labour are provided some insurance against accidents met during the course of agricultural operations or matters connected therewith.

Hence this Bill.

NEW DELHI;
March 2, 1985.

K. RAMAMURTHY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for payment of compensation to a farmer or an agricultural worker who suffers an injury in an accident during agricultural operations. Clause 6 of the Bill provides for constitution of a fund with an initial capital of three hundred crore rupees. Half of this amount shall be provided by the Central Government and the remaining by the States, nationalised banks and other banking institutions. Clause 12 of the Bill provides for appointment of Commissioners. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India to the extent of about rupees one hundred and fifty crores initially and thereafter rupees ten crores annually in respect of Union territories.

A non-recurring expenditure of about rupees five crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Central Government is empowered by clause 17 of the Bill to make rules for carrying out the purposes of the Act. The matter in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 109 OF 1985

A Bill to provide for the fixation of public holidays and working hours for public offices

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Offices (Fixation of Public Holidays and Working Hours) Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “public holiday” means a holiday observed by the State;

(b) “public office” means and includes all offices, establishments working for, or under the authority of, the State;

(c) “the State” includes the Government of India, the Union territory administrations and all other authorities within the territory of India under the control of the Government of India.

3. The State shall not declare any day as public holiday solely on the consideration of religion, race, community, caste, creed, region, tradition or festival.

4. The Republic day, the Independence day and the birthday of Mahatma Gandhi shall be observed as national holidays.

5. In every calendar month Sunday shall not be a public holiday and instead every second, eighth, sixteenth and twenty-fourth day of a calendar month shall be public holidays.

6. Subject to the provisions of section 3, the Central Government may declare any other day, by notification in the Official Gazette, to be a public holiday.

7. The working hours of every public office shall be from 09.00 hours to 17.00 hours with one hour break in between.

Short title, extent and commencement.

Definitions.

Public holidays not to be on the basis of religion, etc

National holidays

Weekly public holidays

Power of Central Government.

Working hours of public offices.

STATEMENT OF OBJECTS AND REASONS

The Preamble to the Constitution declares India as a sovereign, socialist, secular, democratic republic. However, the pattern of our public holidays is entirely based on consideration of religion, tradition, and other non-secular considerations associated with castes and communities. This situation is inconsistent with the spirit of the Constitution. In order to give a uniform, secular and rational look and content to our public holiday system, the Bill seeks to discontinue the concept of traditional holidays like Sundays, etc. and provide for specific dates for weekly public and specific national holidays without any consideration of religion, tradition, etc. for the whole of the country. The Bill also seeks to provide for uniform working hours for all public offices.

NEW DELHI;
April 9, 1985.

K. RAMAMURTHY

BILL NO. 122 OF 1985

Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985. Short title.
2. After Part X of the Constitution, the following Part shall be inserted, Insertion of new Part XA.
namely:—

"PART XA

SPECIAL PROVISIONS RELATING TO HILL AREAS OF THE
DISTRICT OF DARJEELING

244B. In this Part, unless the context otherwise requires,—

- Defini-
tions.
- (a) "District Council" means Council constituted under article 244C;
 - (b) "Official Gazette" means the Gazette published by the Government of the State of West Bengal;
 - (c) "State Government" means the Government of the State of West Bengal;
 - (d) "fund" means the district fund constituted under article 244G;
 - (e) "member" means member of the District Council;
 - (f) "autonomous region" means the territory comprising the area, specified in article 244C.

Creation
of auto-
nomous
region.

244C. Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of West Bengal, an autonomous region comprising such areas, as may be specified, of the district of Darjeeling and neighbouring districts where the Nepali speaking people are in majority and create for the administration of such region a District Council to be constituted in the manner specified under article 244D, with powers and functions as may be specified by law made under article 244E.

Consti-
tution of
District
Council.

244D. (1) The District Council shall be a body corporate by the name of Autonomous District Council (Darjeeling) and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property and shall by the said name sue and be sued.

(2) The District Council shall consist of not more than fifty members out of whom such number of members shall be elected on the basis of adult suffrage as may be specified by law made by the Legislature of the State of West Bengal in that behalf:

Provided that members of the Legislative Assembly of the State of West Bengal, and the member or members of the House of the People for the time being representing the autonomous region or part thereof or such member or members of the Council of States as may be nominated by the Government of the State of West Bengal, shall be *ex-officio* members of the District Council:

Provided further that seats shall be reserved in the District Council for the Scheduled Castes, Scheduled Tribes and the Linguistic Minorities in the region as may be specified by the State Government by an order notified in the Official Gazette.

(3) The constituencies for election to the District Council shall be territorial and the State Government shall by order, notified in the Official Gazette determine the territorial limit of the constituencies into which the autonomous region shall be delimited for the purpose of election of the members to the District Council and, in such notification, shall specify the constituencies to be reserved for Scheduled Castes, Scheduled Tribes and Linguistic Minorities.

(4) The State Government shall, by order notified in the Official Gazette, provided for—

- (a) qualification for membership of District Council;
- (b) disqualification for membership of the District Council;
- (c) preparation of the electoral rolls of the constituencies;

(d) all matters in relation to or in connection with the holding of elections to and due composition of the District Council including the term thereof and in particular may provide for all or any of the following matters:—

(i) appointment of Chairman, Vice-Chairman and other office bearers of the District Council out of the members thereof;

(ii) formation of the Executive Committee of the District Council out of the members thereof;

(iii) salaries and allowances of the Chairman, Vice-Chairman and the members;

(iv) conduct of executive functions;

(v) powers of the Executive Committee; and

(vi) such other matters necessary for and incidental to the functioning of the District Council;

(5) Every member of the District Council shall before taking his seat make and subscribe before such person or persons, as may be appointed by the State Government in that behalf, oath or affirmation according to the form prescribed by the State Government for the purpose.

244E. (1) Subject to any laws made or to be made by Parliament or by the Legislature of the State of West Bengal applicable to the autonomous region, the District Council shall have powers to make laws with respect to—

Power
of
District
Council to
make
laws,

(i) the allotment, occupation or use, or the setting apart, of land, other than any land which is a reserved forest, for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town;

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the State Government in accordance with the laws for the time being in force authorising such acquisition;

(ii) the management of any forest not being a reserved forest;

(iii) the use of any canal or water-course for the purpose of agriculture;

(iv) the establishment of village or town committees or councils and their powers;

(v) any other matter relating to village or town administration, including village or town police;

(vi) the inheritance of property;

(vii) marriage and divorce;

(viii) land;

(ix) land revenue;

(x) agriculture;

(xi) public health and sanitation, hospital and dispensaries;

(xii) social customs;

(xiii) customary law;

(xiv) tourism;

(xv) employment;

- (xvi) public works—development and planning;
- (xvii) transport and communications;
- (xviii) relief of the disabled and unemployed;
- (xix) burials and burial grounds, cremations and cremation grounds;
- (xx) preservation, protection and improvement of livestock and prevention of animal diseases, veterinary training and practice;
- (xxi) ponds and the prevention of cattle trespass;
- (xxii) water, that is to say, water supplies, irrigation and canals, **drainage and embankments**, water storage and water power;
- (xxiii) protection of wild animals and birds;
- (xxiv) fisheries;
- (xxv) production, supply and distribution of goods;
- (xxvi) markets and fairs;
- (xxvii) money-lending² and money-lenders, relief of agricultural indebtedness;
- (xxviii) inns and inn-keepers; including hostels of all kinds;
- (xxix) theatres and dramatic performances; cinemas; video, **sports entertainments and amusements**;
- (xxx) education—primary and secondary;
- (xxxi) betting and gambling;
- (xxxii) works, lands and buildings vested in or in the possession of the **District Council**;
- (xxxiii) small-scale industries, trade and commerce;
- (xxxiv) district public services, District Public Service Commission;
- (xxxv) mines and minerals;
- (xxxvi) micro-hydel projects;
- (xxxvii) medicinal herbs and plants;
- (xxxviii) taxes on the entry of goods into a local area for consumption, use or sale therein;
- (xxxix) taxes on the consumption or sale of electricity;
- (xl) taxes on advertisements other than advertisements published in the **newspapers**;
- (xli) taxes on goods and passengers carried by road;
- (xlii) taxes on animals and boats;
- (xliii) tolls;
- (xliv) taxes on professions, trades, callings and employments.

(2) In this article a “reserved forest” means an area which is a reserved forest within the meaning of the Indian Forest Act, 1927.

(3) All laws made under this article shall come into effect upon their publication in the Official Gazette:

Provided that the Central Government may, with regard to any law made or to be made by Parliament or State Government in respect of laws made or to be made by the Legislature of the State of West Bengal by order notified in the Gazette of India or Official Gazette, as the case may be, provide that any such law or laws shall not apply to the autonomous region.

Explanation.—“Law” in this article includes any enactment, ordinance, regulation, order, by-law, rule, scheme, notification or other instrument having the force of law.

244F. (1) The State Government may, by notified order, constitute a court or courts within the autonomous region to the exclusion of any court having jurisdiction over such area and may appoint, in consultation with the Chairman or in his absence the Vice-Chairman of the District Council, suitable person or persons to be members or presiding officers of such courts as may be necessary for the purpose of administration of justice in the autonomous region.

Adminis-
tration
of
justice in
autono-
mous
regions,

(2) The court or courts so constituted shall have power to try all suits and proceedings of such description and of such value as may be determined by the State Government and notified in the Official Gazette.

(3) An appeal shall lie to the High Court at Calcutta from any final decision rendered by such court or courts and for the said purpose the State Government shall have power to frame rules in consultation with the Chairman or in his absence the Vice-Chairman of the District Council which shall be notified in the Official Gazette.

244G. (1) There shall be constituted for the autonomous region, a District Fund to which shall be credited all money received by the District Council in course of administration of such autonomous region.

District
Fund,

(2) The State Government may make rules for the management of the District Fund and for the procedure to be followed in respect of Payment of money into the said Fund, withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with and ancillary to the matters aforesaid.

(3) The accounts of the District Council shall be kept in such form as may be prescribed by the State Government in consultation with the Accountant General of West Bengal.

(4) The State Government shall cause the accounts of the District Council to be audited by the Accountant General of West Bengal in such manner as he may think fit and the report of the Accountant General shall be submitted to the State Government, after such report has been placed before the District Council and discussed, and the State Government shall, in turn, lay such report before the Legislature of the State of West Bengal.

Vesting
of
property
to
District
Council.

244H. Subject to such restrictions or conditions as the State Government may think fit and proper, all properties of the nature specified below and situated in the autonomous region, shall vest in and belong to the District Council with all other properties which may become vested in the District Council and shall be under the direction, management and control of the District Council and shall be held and applied for the purpose of this Act,—

(a) all public buildings, constructed and maintained out of the fund of the District Council;

(b) all public roads which have been constructed or maintained out of the fund of the District Council and the stones and other materials thereof and also trees, erections, materials, implements and other things provided for such roads;

(c) all lands or other properties, movable or immovable, transferred to the District Council by the Government.”

STATEMENT OF OBJECTS AND REASONS

Prior to the independence of the country and even after independence, the people of Darjeeling district in the State of West Bengal and in particular the Nepali speaking people of the district, who have contributed substantially to the overall development and advancement of the country, have a feeling of being kept out of the mainstream of national development. The alien rulers for their own interests kept such people educationally, culturally, economically and politically backward and they have felt for decades to have been cut off from the national mainstream. There has been a persistent demand for their fuller and greater participation in the process of national development consistent with their separate identity and development of their own economic, political and cultural life in consonance with their specific aptitude and characteristics unitedly with the people of West Bengal and other parts of the country. It is well known that since the period of Morley-Minto Reforms, the people of the area have been demanding autonomy which was reiterated time and again. They represented their case for autonomy before the Simon Commission and after independence, they made their demand for autonomy within the State of West Bengal before the then Prime Minister of India Pandit Jawaharlal Nehru in April 1952. The demand was made not only by the Nepali speaking people but also by all political parties which included Darjeeling District Committee of Indian National Congress, Gorkha League, Communist Party of India, Bhutia and Lepcha Associations, different Bar Associations and Organisations of the Bengali community. They further represented their case before the State Re-organisation Commission when it visited Darjeeling in 1955.

The alien rulers were insensitive to the claims, urges and aspirations of the people of the area and, unfortunately, even after independence, their reasonable demand has not been considered favourably. This has created deep rooted frustration amongst the people, which is being exploited by the reactionary and vested interests resulting in demands for a separate State in the name of "Gorkha Land". Such demand is being exploited by interested and designing persons and parties and will result in disintegration of the country.

To harness the patriotic urge of the Nepali speaking people and in the process of national integration and development of the country, in which the Nepali speaking people have made significant and gallant contribution with their loyal and devoted service, such people should be drawn into the mainstream of national development and progress by providing opportunities to them to participate in the administration and in development activities, thereby installing in them a sense of belonging and involvement. This can only be achieved by granting the people of the area regional autonomy in the compact areas of three hill sub-divisions of the Darjeeling district and the contiguous areas where the Nepali speaking people are in majority, within the State of West Bengal.

Hence this Bill.

NEW DELHI;
April 11, 1985.

ANANDA PATHAK.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the State Government to provide, by order notified in the Official Gazette, for membership of the District Council, and all matters in connection with the holding of elections to the District Council and other matters relating to the functioning of the District Council (new article 244D); prescribe the form of oath or affirmation to be subscribed before taking seat in the District Council (new article 244D); and make rules for the management of the District Fund and to prescribe the form in which the accounts of the District Council shall be kept (new article 244G). Since these are matters of detail only and cannot be provided in the Bill itself, the delegation of legislative power is of a normal character.

BILL NO. 131 OF 1985

A Bill to provide for the financing of elections to the House of the People and to the Legislative Assemblies of the States, by the Central Government.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Financing of Elections by the State Act, 1985.

Short
title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “candidate” shall have the same meaning as in the Representation of the People Act, 1951;

(b) “election” means an election to fill a seat or seats in the House of the People or the Legislative Assembly of a State;

(c) “Election Commission” means the Election Commission appointed by the President under article 324 of the Constitution;

(d) "political party" shall have the same meaning as in the Election Symbols (Reservation and Allotment) Order, 1968.

Expenditure of candidates for contesting elections to be borne by the Central Government.

3. Notwithstanding anything contained in any law for the time being in force, all expenditure in connection with the elections of a candidate belonging to any recognised political party to the House of the People or the Legislative Assembly of a State shall be borne by the Central Government in accordance with the scheme referred to in section 4.

Scheme to be framed by the Central Government.

4. (1) The Central Government shall, in consultation with the Election Commission, frame a scheme for carrying into effect the purpose of this Act, as soon as may be after the commencement of this Act.

(2) The scheme may provide for all or any of the following matters, namely:—

(a) the creation of a fund for meeting the expenses for administering of the scheme and for carrying into effect the provisions of this Act, and in particular, the proportion of contribution of the Central Government as well as the State Governments to the fund;

(b) fixing afresh the ceiling on expenditure to be incurred by each candidate in the election; and

(c) the manner in which election propaganda is to be organised by the candidates.

(3) The scheme framed under sub-section (1) shall be laid as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modifications in the scheme, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

Candidates not to exceed maximum limit of authorised expenditure.

5. Notwithstanding anything contained in Chapter VIII of Part V of the Representation of the People Act, 1951, and in any other law for the time being in force, no candidate shall incur or authorise any expenditure to be incurred in connection with his election to the House of the People or to the Legislative Assembly of a State to exceed the maximum expenditure which may be authorised under sub-section (2) of section 4.

43 of
1951.

STATEMENT OF OBJECTS AND REASONS

Elections to the House of the People and to the Legislative Assemblies of States involve enormous expenditure. Excessive use of money vitiates the choice of the people and renders nugatory the democratic values which we cherish. Therefore, a stiff measure of check on the lavish use of money in the elections is very essential in order to maintain the purity of our democratic institutions. This object can be best achieved if the State meets entirely the election expenditure of each candidate. If the State finances the elections, the vulgar and ostentatious manner in which election propaganda is carried out by many candidates can be curbed and elections will be fought on the basis of policies and programmes of parties the candidates represent.

This Bill seeks to achieve the aforesaid objective.

NEW DELHI;
May 2, 1985

P. J. KURIEN.

FINANCIAL MEMORANDUM

Clauses 3 and 4 of the Bill provide for the financing of elections and setting up of a fund for the purpose, respectively. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. The recurring expenditure is likely to be of the order of rupees one hundred crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees fifteen lakhs.

BILL NO. 130 OF 1985

A Bill to provide for the payment of unemployment allowance to the unemployed persons in the country and for matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Unemployment Allowance Act, 1985.

Short*
title and
com-
mence-
ment

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "unemployed person" means any person possessing the qualification referred to in section 3, who has not secured any employment within three months of his possessing that qualification.

Defini-
tion

Explanation.—In this section, "employment" means any job, either in private sector or in public sector or in the services of the Central Government or the Government of a State, which fetches him such monthly emoluments as are not less than the minimum wage prescribed in that particular State or Union territory under the Minimum Wages Act, 1943.

Payment
of un-
employ-
ment
all-
owance.

3. There shall be paid to every unemployed person who is a graduate or a post graduate a monthly unemployment allowance of rupees two hundred and fifty and to every person who has passed the higher secondary examination a monthly unemployment allowance of rupees one hundred and fifty from the Unemployment Allowance Fund constituted under section 4.

Constitu-
tion of
Un-
employ-
ment
All-
owance
Fund.

4. There shall be constituted by the Central Government an Unemployment Allowance Fund in which fifty per cent. of the amount shall be contributed by the Central Government and the remaining fifty per cent. by the State Governments in such proportions, as may be determined by the Central Government.

Eligi-
bility for
receiv-
ing un-
employ-
ment
all-
owance.

5. An unemployed person shall become eligible for receiving the unemployment allowance on completion of three months of his passing the examination referred to in section 3.

Power
rules.
to make

6. (1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Article 41 of the Constitution enjoins upon the State to provide public assistance to unemployed persons in the country.

The problem of unemployment is assuming great dimensions as the years go by. The fruits of planned development of the economy are still to reach a vast section of the population. Although industrialisation has taken place on a large scale, enough employment opportunities have not been created so as to absorb the large number of educated young persons who come out of our schools and colleges. Unemployment creates frustration in the minds of our youth and turns their energy away into destructive channels. This creates social tensions and all the other attendant evils.

The framers of our Constitution had realised the gravity of this problem and thus made payment of unemployment allowance as one of the directive principles of State policy. It is, therefore, the duty of the State to provide sustenance to the unemployed person till such time as he is able to find employment. This intends to give effect to this principle enshrined in the Constitution.

NEW DELHI;
May 2, 1955.

P. J. KURIEN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the payment of unemployment allowance. Clause 4 provides for the constitution of a fund for paying unemployment allowance. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees ten crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Act. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 119 OF 1985

A Bill to provide for welfare measures for the transport parcel service workers.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Transport Parcel Service Workers Welfare Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “authority” in relation to any State, means the authority appointed by the appropriate Government which is responsible for issuing licences, registration numbers to vehicles, permanent and temporary permits to vehicles, maintenance of suitable registers for these purposes and the like jobs;

(b) “day” means a period of twenty-four hours beginning at midnight;

(c) “duty hours” means the time during which a motor transport worker is at the disposal of the employer or of any other person entitled to claim his services and includes the time spent in work done during the running time of the transport vehicle, the time spent in subsidiary work and periods of mere attendance at terminals of less than fifteen minutes;

(d) “employer” means, in relation to any motor transport parcel service undertaking, the owner of the vehicle, or the person who or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name such other person;

(e) “transport parcel service” means a motor transport undertaking engaged in carrying parcels or goods or both by road for hire or reward, and includes a private carrier;

Short
title,
extent
and com-
mence-
ment,

Defini-
tion.

(f) "worker" means transport parcel service worker who is employed in a motor transport undertaking, directly or through an agency, in a transport vehicle to attend to duties in connection with the arrival, departure, loading or unloading and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant and staff engaged for welfare and other purposes of the transport parcel service workers as provided in the Motor Transport Workers Act 1961.

Authority to maintain register of employers

3. The authority shall maintain a register of vehicle owners/employers of the area with such particulars and shall maintain the said register in such manner as may be prescribed by rules made under this Act.

Register of workers

4. The authority shall maintain a register of workers of the area with such particulars and shall maintain the said register in such manner as may be prescribed by rules made under this Act.

Authority to regulate service condition of workers,

5. The authority shall regulate the service conditions of the transport parcel service workers as may be prescribed by rules made under this Act.

Punishment to unregistered employer.

6. If an unregistered owner/employer engages any person in his trade, he shall be liable for prosecution and punishment.

Counting of period of service of a workers.

7. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service put in by the worker in a month or year.

Transport Parcel Service Workers Welfare Fund.

8. The Central Government shall constitute a Fund to be called the Transport Parcel Service Workers Welfare Fund.

Imposition of cess.

9. There shall be levied and collected as a cess, for the purposes of this Act, from each owner/employer, at the rate of fifty paise per quintal of parcel or part thereof.

Application of proceeds of cess.

10. The proceeds of cess levied and collected under this Act shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, pay to the Transport Parcel Service Workers Welfare Fund, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit, for the welfare of workers as provided under sections 11 and 12.

- 11.** The amount credited to the Transport Parcel Service Workers Welfare Fund shall be utilised for the purposes of management and maintenance of canteens, rest rooms, medical facilities, first-aid-facilities and similar other general amenities for the workers. Provision of facilities to workers
- 12.** Every worker shall be insured with the Life Insurance Corporation of India for a minimum of rupee twenty-five thousand and the required contribution shall be made out of the Transport Parcel Service Workers Welfare Fund. Insurance of workers
- 13.** There shall be formulated a scheme for providing pension-cum-provident fund facility to the worker when he becomes old and infirm. Pension and provident fund facility to worker.
- 14.** Every owner/employer shall, before engaging any workman, notify his need of workmen to the registering authority within whose jurisdiction his activity is in operation. Employee to notify his need of workman to authority.
- 15.** The authority shall submit to the Central Government such periodical returns, including a list of the workers of the area registered with the registering authority, within such intervals and with such particulars, as may be prescribed. Authority to submit periodical returns.
- 16.** The owner/employer shall provide each worker with the three sets of uniforms in a year and reasonably adequate washing allowance for the maintenance of such uniforms. Supply of uniform to workers
- 17.** No owner/employer shall reject a worker on the ground that he is not fit or cannot perform a particular job. Employee not to reject worker
- 18.** There shall be an Advisory Council at Central and State levels to advise the respective Governments on all problems arising from the implementation of this Act. Advisory Council
- 19. (1)** The authority shall give an unemployment allowance to every worker, whose name appears in the register maintained by the authority, if he has been rendered unemployed for the time being. Unemployment allowance to Registered workers who are rendered unemployed.
- (2)** The quantum of unemployment allowance shall be determined, from time to time, by the appropriate authority.
- 20. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act. Power to make rules.
- (2)** In particular and without prejudice to the generality of the forgoing power, such rules may provide for the fixation of hours of work, daily intervals for rest, spread-over of hours of work, split duty, notice of hours of work, weekly rest, compensatory day of rest, overtime wages for extra work, annual leave with wages, and other similar matters.

STATEMENT OF OBJECTS AND REASONS

The road transport workers in the country are the most low-paid and insecure workers. They are the most exploited because they are not organised and cannot be organised due to the very nature of their job. It is necessary to safeguard the interests of these unfortunate lot of workers.

Hence this Bill.

AJOY BISWAS

NEW DELHI,

April 4, 1985.

OF THE CONSTITUTION OF INDIA

[Copy of letter No. H. 11021/1/85-D.I(B), dated 7 May, 1985 from Shri T. Anjiah, Minister of State of the Ministry of Labour to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Transport Parcel Service Workers Welfare Bill, 1985 by Shri Ajoy Biswas, Member of Parliament, has recommended under articles 117(1) and 274(1) of the Constitution for introduction of the Bill and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

With a view to ensuring that the Transport Parcel Service Workers Welfare Fund has necessary resources to discharge its functions, this Bill seeks to provide for levy of cess at the rate of fifty paise per quintal of parcel or part thereof carried by the transport vehicle.

2. The proceeds of the aforementioned cess will be paid into the Consolidated Fund of India. Under clause 10 of the Bill, the Central Government may, if Parliament, by appropriation made by law, in this behalf, so provides, pay to the said fund from time to time, out of such proceeds, after deducting the expenses on collection, such sums of money as the Government may think fit.

3. The collection of the aforementioned cess will involve some expenditure from the Consolidated Fund of India. It is not possible at this stage to estimate the amount of such expenditure.

4. Clause 3 of the Bill provides for the transport authority to maintain register of employers. Clause 4 of the Bill provides for the transport authority to maintain register of workers. Clause 8 of the Bill provides for the constitution of Transport Parcel Service Workers Welfare Fund. Clause 18 provides for the setting up of an Advisory Council at Central and State levels. Clause 19 provides for the payment of unemployment allowance by the authority to the registered workers who are rendered unemployed. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakhs per annum. A non-recurring expenditure of about rupees two lakhs is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Act. The delegation of legislative power is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.